

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Adam Quenneville Roofing, for Village Park Apartments
160 Old Lyman Road, South Hadley, MA 01075

Date application filed with the Town Clerk: March 20, 2008

Nature of request: A Special Permit, in accordance with Condition #1 of Special Permit ZBA FY1969-66, to install an accessible exterior ramp and doorway for a universally accessible unit, an exterior stairway and door to a second floor apartment, remove sliding glass door and deck and replace with a window, for units 123 and 124

Address: 497 East Pleasant Street (Map 8D, Parcel 21, R-N Zoning District)

Legal notice: Published on March 26 and April 2, 2008 in the Daily Hampshire Gazette and sent to abutters on March 25, 2008

Board members: Tom Simpson, Hilda Greenbaum and Al Woodhull

Submissions: The petitioner submitted a Management Plan, a map of Village Park showing the unit addresses, the parking lots and the dumpster locations, a copy of an Occupancy Agreement, and a five-page set of building plans drawn by Eisenberg Haven Architects, dated 8/26/02, and pictures of the building and closest parking area.

The zoning staff assistant submitted a memo dated 4/4/08 concerning zoning requirements and site information. Also submitted were copies of the original Special Permit FY1969-66, plus subsequent Special Permits for alterations of the site, FY95-00037 and FY2007-24.

Site Visit: April 8, 2008

The Board met with the applicant's representative Brian Corriveau at the site. They observed the following:

- The location of Village Park Apartments, off East Pleasant Street, with 20+ acres containing woods, buildings, a stream and open space between the buildings;
- The generally high level of maintenance of the buildings and property;
- The location of a handicapped parking place directly behind the building proposed for conversion, plus the nearest parking area that will have a van-accessible space as well.
- The slope between the parking area and the front of the proposed accessible apartment, plus the rather circuitous route a person in a wheelchair would take to go from the parking area to the accessible apartment;
- The stand-alone two apartment building that is proposed to be renovated and reconfigured for an accessible apartment;
- The existing entrance ramp to the front of the building;
- The location of the new deck and ramp for the accessible apartment, and the proposed outdoor stairway for the second floor apartment.

Public Hearing: Brian Corriveau, project manager from Quenneville Roofing, spoke to the application. He gave the following information:

- He is in charge of the conversion of the existing units to a fully accessible first floor unit and a second-floor unit;
- There are 200 townhouse units at Village Park, with 96 one-bedroom, 94 two-bedroom and 10 three-bedroom apartments;
- The apartment complex was constructed in 1971;
- Some apartments do have ramps, but to date there are no fully accessible units in Village Park;
- The proposed construction program is to replace the entire ground floor with an accessible unit, keep the indoor stairway to the second floor, the bedrooms and bath on the second floor, and create a new kitchen and living room on the second floor;
- Heating for the apartments will not change from the existing baseboard hot water system;
- Exterior changes will include:
 - 1) A new ramp and sidewalk onto Village Park Road that will be added in the back of the accessible apartment (north side of the building);
 - 2) A change in the grade on the lawn next to the new ramp so that there will be a one foot decline for 20 feet of sidewalk; the ramp will have a grade of one foot height change to 12 feet of ramp;
 - 3) Replacement of the two existing decks in the back of the building with a new accessible deck with a French door, plus a new casement window that will be above the kitchen sink in the new accessible apartment;
 - 4) The addition of a second means of egress for the second floor apartment, a covered exterior stairwell and door.
- The stairway banister, and windows and trim will match the existing style and color;
- The aesthetics of the exterior will not change.

The goal is to meet the code requirements for 5% of the total number of dwelling units, or 10 units, to become accessible, Mr. Corriveau stated.

Mr. Simpson asked if a Special Permit is actually needed for the proposed changes. Condition #1 of the original Special Permit, ZBA FY69-66, states only that the architectural plans shall be approved by the Board of Appeals. It does not say that a new Special Permit is required.

Ms. Weeks, Building Commissioner, said that the Town Attorney had examined Condition #1 specifically before. His interpretation was that if a Special Permit condition does not specifically state that proposed changes can be presented to the Board at a public meeting, then a hearing is required.

Ms. Holstein, zoning assistant, added that apartments are not allowed in R-N districts now, so that the use is non-conforming. Under Section 9.22 of the Zoning Bylaw, any changes in use to a non-conforming structure require a Special Permit from the ZBA.

Mr. Simpson asked whether the proposed concrete sidewalk in the back of the accessible unit should be asphalt to match the other sidewalks in the complex. The applicant responded that concrete is better for wheelchairs, since there are expansion joints that help to keep the surface level smoother. Asphalt cracks and crumbles more readily. He also said that the concrete can be considered as a private walkway to the main asphalt sidewalk. Ms. Greenbaum agreed, saying that concrete is more aesthetic.

Ms. Greenbaum asked if a wheelchair could enter into such a small bedroom from the new back deck. The

applicant responded that the turning radius for a wheelchair would be large enough with the French doors at the back deck.

Ms. Weeks stated that the Building Code does not allow a second means of egress from a bedroom. Both the accessible and the second floor apartment are designed with an egress from a bedroom. The fire code prohibits an egress to be in a room that can be locked to separate it from the rest of the dwelling.

Mr. Woodhull wondered if a requirement could be made for these two units that the bedroom door must be unlocked at all times. Such a condition cannot be enforced in a private home, but could be for rental units via the lease.

Ms. Weeks said that the applicant could apply for a variance from the Board of Building Regulations to keep the bedroom entrance unlocked at all times. The applicant said that he would look into re-designing the apartment interiors first so that the second egress would come from the living room instead of the bedroom.

The Board asked about the number of parking places at Village Park and whether a van-accessible space would be placed in the parking area closest to the converted apartments. The manager of Village Park said that there are 306 parking places for the entire complex, about 1½ spaces per dwelling unit. He assured the Board that the parking area will contain a van accessible space for the apartment.

The Board asked about the schedule for future conversions to accessible units. The applicant stated that they generally wait until a unit is empty, but the turnover of tenants at Village Park is not rapid. The tenants have found Village Park to be a good place for families and may stay for years. He also stated that it's best to convert end units, so some tenants may be re-located when an opening occurs. One-bedroom and two-bedroom apartments are candidates for conversion to a universally accessible unit.

Mr. Simpson asked if anyone from the public wished to comment on the application. Tahila Brown, 133 Village Park, the child with the disabilities who needs an accessible apartment, gave a big "Yea" in support of the application.

With no other comments from the public, Ms. Greenbaum made a motion to close the hearing. Mr. Woodhull seconded the motion, and the vote was unanimous to close the public hearing.

Public Meeting:

The Board discussed whether it was necessary for the owners of the apartment complex to apply for a Special Permit each time a unit would be converted to a universally accessible one. They decided that it should not be necessary to do so, that an appearance with plans at a public meeting would be sufficient.

The Board spent the remainder of the public meeting drafting findings and conditions if the Special Permit were to be granted.

Findings:

The Board finds under Section 9.22 of the Zoning Bylaw, Non-Conforming Uses and Structures, that the non-conforming apartment complex will not be different in character or its effect on the neighborhood by the conversion of one of the apartment buildings to contain a universally accessible dwelling unit. In fact, the apartment complex will be improved with essentially two newly restored dwelling units. Thus the Board may authorize the alterations of the building under a Special Permit.

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 – The proposal is suitably located in the neighborhood and is compatible with existing uses because Village Park Apartments comprises its own neighborhood and is in need of accessible apartments.

10.382 and 10.383 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the proposal does not change the number of units on site or the screening for adjoining premises.

10.383 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians because no changes are being made to the existing sidewalks, roadways or the placement of buildings. A small connector from the accessible apartment to a sidewalk will be added.

10.384 – Adequate and appropriate facilities would be provided for the proper operation of the proposed use because all ADA requirements are followed with the creation of the accessible apartment. Also, a van-accessible parking place will be created in the parking lot closest to the apartment.

10.395 – The proposal does not create disharmony with respect to the scale and architecture of existing buildings because any exterior changes will match the existing design and colors of the buildings.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it promotes the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst with physical disabilities and is a first step in meeting ADA requirements that 5% of the apartments be fully accessible.

Public Meeting – Zoning Board Decision

Mr. Simpson made a motion to APPROVE the application to make exterior changes to a two-unit building at Village Park Apartments in order to create a universally accessible apartment, with conditions. Ms. Greenbaum seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, in accordance with Condition #1 of Special Permit ZBA FY69-66, to install an accessible exterior ramp for a universally accessible unit, an exterior stairway and door to a second floor apartment, remove a sliding glass door and deck and replace it with a window for units 123 and 124, on the premises at 497 East Pleasant Street (Map 8D, Parcel 21, R-N Zoning District) as requested in the application filed by Adam Quenneville Roofing for Village Park Apartments, with conditions.

THOMAS SIMPSON

HILDA GREENBAUM

ALBERT WOODHULL

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

**Town of Amherst
Zoning Board of Appeals**

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit, in accordance with Condition #1 of Special Permit ZBA FY69-66, to install an accessible exterior ramp for a universally accessible unit, an exterior stairway and door to a second floor apartment, to remove a sliding glass door and deck and replace it with a window for units 123 and 124, on the premises at 497 East Pleasant Street (Map 8D, Parcel 21, R-N Zoning District) as requested in the application filed by Adam Quenneville Roofing for Village Park Apartments, subject to the following conditions:

1. All exterior changes shall be made according to the building plans submitted and the testimony given at the public hearing on April 10, 2008.
2. A van-accessible parking place, discharge aisle, curbcut, sidewalk connection, and appropriate signage shall be installed in accordance with the requirements of the Architectural Access Board of Massachusetts in the parking area closest to units 123 and 124.
3. Final plans for the interior of the proposed units and their second means of egress, as well as site plans indicating the layout of the van-accessible parking space and associated site changes, shall be submitted to the Zoning Board of Appeals for approval at a public meeting prior to issuance of the building permit.
4. All windows, railings and trim shall match that of the existing architecture and colors.
5. Future Village Park apartment conversions to fully accessible units shall be submitted to the Zoning Board of Appeals for approval at a public meeting. Village Park residents shall be notified by the apartment owners of the time and place of the ZBA public meeting at least one week prior to the meeting.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE